IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7913 OF 2004

A.Majid Mohamadsaheb Mirajkar .. Petitioner.
Vs.
Muslim Kabarastan Trust & Ors. .. Respondents.

Mr.V.V.Purwant for the petitioner.
Mr.Tejas D.Deshmukh for the respondents.

CORAM : D.B.BHOSALE, J.

DATED : 4TH OCTOBER, 2004

P.C.:

. Mr.Purwant, learned counsel for the petitioner and Mr.Deshmukh, learned counsel for the respondents.

2. By this writ petition, the petitioner seeks to challenge the order dated 6.1.2004 by which the application filed by the petitioner seeking condonation of delay in filing application under Order 9 Rule 13 of the Civil Procedure Code for restoration of original Suit bearing R.C.S.No. 3/2002 decided by the Additional District Judge, Solapur on 25.7.2003 has been rejected. It is apparent from the judgment and decree dated 25.7.2003 that the summons were served on the

petitioner-defendant and he failed to file written statement and the suit proceeded without written statement. That being so, the provisions of Order 9 Rule 13 would not apply to the facts of the present case. However, it is open for the petitioner to adopt appropriate proceedings against the judgment and decree dated 25.7.2003. In view thereof Mr.Purwant, learned counsel for the petitioner prays for withdrawal of this petition with liberty to the petitioner to adopt appropriate proceedings. The petition is, accordingly, allowed to be withdrawn with liberty as prayed for.

(D.B.Bhosale, J.)